

R28. Administrative Services, Fleet Operations, Surplus Property.

R28-1. State Surplus Property Disposal.

R28-1-1. Purpose.

This rule sets forth policies and procedures which govern the acquisition and disposition of state and federal surplus property.

It applies to all state and local public agencies and eligible non-profit educational and health institutions when dealing with federal surplus property. It also applies to all state agencies unless specifically exempted by law and to the general public when dealing with state surplus property.

R28-1-2. Authority.

Under the provisions of Title 63A, Chapter 9, Part 8, the Utah State Agency for Surplus Property (USASP) within the Division of Fleet Operations, under the Department of Administrative Services is responsible for operating both a state and a federal surplus property program. The standards and procedures governing the operation of these two programs are found in two separate State Plans of Operation, one for state surplus property and a second plan for federal surplus property, the latter being a contract between the state and federal government. The State Plans of Operation may be reviewed at the USASP.

R28-1-3. Definitions.

A. As used in this section "Personal handheld electronic device":

1. means an electronic device that is designed for personal handheld use and permits the user to store or access information, the primary value of which is specific to the user of the device; and,

2. includes a mobile phone, pocket personal computer, personal digital assistant, wireless, or similar device.

R28-1-34. Procedures.

A. State-owned personal property shall not be destroyed, sold, transferred, traded-in, traded, discarded, donated or otherwise disposed of without first submitting a properly completed form SP-1 to and receiving authorization from the USASP.

This rule applies to and includes any residue that may be remaining from agency cannibalization of property.

B. When a department or agency of state government determines that state-owned personal property is in excess to current needs, they will make such declaration using Form SP-1. State-owned personal property shall not be processed by the USASP unless the appropriate form is executed.

C. A standard form SP-3 is required when it is determined that state-owned personal property should be abandoned and destroyed. The SP-3 is generated by the USASP after receiving a form SP-1 and reviewing the property being disposed of by the agency.

D. State-owned information technology equipment may be transferred directly to public institutions, such as schools and libraries by the owning agency. However, a form SP-1 must still

be completed and forwarded to the USASP to account for the transfer of the equipment. In such cases, the USASP will not assess a fee. Similarly, the USASP is authorized to donate computer equipment received as surplus property from agencies to schools that have submitted requests for computer equipment directly to the USASP.

E. Pursuant to the provisions of section 63A-9-808.1, state-owned information technology equipment may be transferred directly to Non-profit entities for distribution to, and use by, persons with a disability as defined in subsections 62A-5-101(4)(a)(i) and (ii). However, interagency transfers and sales of surplus property to state and local agencies within the 30-day period under section 63A-9-808 shall have priority over transfers under this subsection. The 30-day holding period may be waived if shown to be in the best interest of the state.

F. Requests for state-owned information technology equipment from non-profit entities shall be:

1. Submitted, in writing, on the non-profit entity's official letterhead, to the Department of Human Services, Division of Services for People with Disabilities (DSPD);

2. Reviewed and approved by DSPD and forwarded to the USASP manager to properly track and arrange for distribution.

G. State agencies transferring state-owned information technology equipment to non-profit entities for distribution to, and use by persons with a disability as defined in subsections 62A-5-101(4)(a)(i) and (ii), shall provide the USASP with completed SP-1 forms in order to account for the transfer of said equipment. In such cases, the USASP will not assess a fee to the donating agency.

H. Pursuant to the provisions of subsection 63A-9-808.1(4), the USASP shall prepare an annual report to DSPD containing the names of non-profit entities that received state-owned information technology equipment under subsection 63A-9-808.1(2), and the types and amounts of equipment received.

I. Prior to submitting information technology equipment to Surplus Property, or donating it directly to the public institutions, agencies shall delete all information from all storage devices. Information shall be deleted in such a manner as to not be retrievable by data recovery technologies.

J. Federal surplus property is not available for sale to the general public, on a day-to-day basis. Donation of federal surplus property shall be administered in accordance with the procedures identified in the State Plan of Operation for the Federal Property Assistance Program. Public auctions of federal surplus property are authorized under certain circumstances and conditions. The USASP Manager shall coordinate such auctions when deemed necessary or appropriate. Federal surplus property auctions are primarily conducted online, but are regulated and accomplished by the U.S. General Services Administration.

K. This section sets forth policy and procedure, which governs the sale of personal handheld electronic devices to a user who is provided such a device by an agency, and who subsequently leaves or changes employment. These personal handheld electronic devices usually rely on technology that is rapidly changing,

resulting in the devices becoming continuously outdated as more capable devices are offered; therefore, their value depreciates significantly over the period of their service. Their usefulness is generally tied to a service contract with a service provider.

1. Personal handheld electronic device and related accessories and software may be purchased by the assigned user upon a change in employment status including termination, retirement, or transfer to another agency within state government; provided that the issuing agency is not obligated to continue the terms of the service contract.

2. Purchase of a handheld device is exempt from the requirements of related party transactions under R28-1-45.

3. Prior to a purchase of a handheld device, the following requirements shall be completed in substantially the following order:

a. the agency that assigned or provided the personal handheld electronic device shall:

i. authorize, in writing to USASP, the sale to the assigned user in lieu of exchange or surplus;

ii. submit an SP-1 to USASP with a description of the items to be included in the sale of the personal handheld electronic device including the make, model, serial number, specifications (if available), list of accessories, software; and

iii. remove, or cause to be removed, from the personal handheld electronic device any:

(A) software owned or licensed by the agency as required by the software license agreement;

(B) information that is classified as protected, private, or controlled under the Title 63, Chapter 2, Government Records Access and Management Act; and

(C) Ensure in writing that the service contract is null and void to the issuing agency or transferable to the purchaser.

b. The USASP shall:

i. have an established fee that has been approved by the Department of Administrative Services Rate Committee;

ii. receive the SP-1 form, and;

iii. generate an invoice for the transaction upon receiving full payment of the fee from the designated purchaser of the device.

c. The designated purchaser of the device shall:

i. make full payment of the fee to the USASP for the item, and;

ii. sign the invoice and return the signed invoice to USASP.

d. The agency may be authorized by the division to transfer ownership of the personal handheld electronic device to the designated purchaser of the device.

L. The USASP Manager or designee may make an exception to the written authorization requirement identified in paragraph A above. Exceptions must be for good cause and must consider:

1. The cost to the state;

2. The potential liability to the state;

3. The overall best interest of the state.

R28-1-45. Related Party Transactions.

A. The USASP has a duty to the public to ensure that State-owned surplus property is disposed of at fair market value, in an independent and ethical manner, and that the property or the value of the property has not been misrepresented. A conflict of interest may exist or appear to exist when a related party attempts to purchase surplus property.

B. A related party is defined as someone who may fit into any of the following categories pertaining to the surplus property in question:

1. Has purchasing authority.
2. Has maintenance authority.
3. Has disposition or signature authority.
4. Has authority regarding the disposal price.
5. Has access to restricted information.
6. Is perceived to be a related party using other criteria which may prohibit independence.

C. Owning state agencies may list any recommended purchasers on the standard form SP-1 Final decision rests with USASP as to selling price and buyer.

D. When a prospective purchaser is identified or determined to be a related party, the USASP will employ one of the following procedures:

1. The USASP may require written justification and authorization from the Department or Division Head or authorized agent. Justification may include reference to maintenance history, purchase price and the absence of conflicts of interest.

If the related party is an authorized agent, a higher approval may be sought.

2. The USASP may choose to hold the property for sale by public auction or sealed bid. The prospective buyer may then compete against other bidders.

3. The USASP may hold the property for a 30-day period before allowing the related party the opportunity to purchase the property, thus allowing for purchase of the property in accordance with the priorities listed below. The 30-day holding period may be waived if shown to be in the best interest of the state.

R28-1-56. Priorities.

A. Public agencies are given priority for the purchase of state-owned surplus property.

B. Property received by the USASP that is determined to be unique, in short supply or in high demand by public agencies shall be held for a period of 30 days before being offered for sale to the general public. The 30-day holding period may be waived if shown to be in the best interest of the state.

C. For this rule, the entities listed below, in priority order, are considered to be public agencies:

1. State Agencies
2. State Universities, Colleges, and Community Colleges
3. Other tax supported educational agencies or political subdivisions in the State of Utah including cities, towns, counties and local law enforcement agencies
4. Other tax supported educational entities

5. Non-profit health and educational institutions

D. State-owned personal property that is not purchased by or transferred to public agencies during the 30-day hold period may be offered for public sale. The 30-day holding period may be waived if shown to be in the best interest of the state.

E. The USASP Manager or designee shall make the determination as to whether property is subject to the 30-day hold period. The decision shall consider the following:

1. The cost to the state;
2. The potential liability to the state;
3. The overall best interest of the state.

R28-1-67. Accounting and Reimbursement.

A. The USASP will record and maintain records of all transactions related to the acquisition and sale of all state and federal surplus property. A summary of the total yearly sales of state surplus by agency or department will be provided to the legislature following the close of each fiscal year.

B. Reimbursements to state agencies from the sale of their surplus property will be made through the Division of Finance on interagency transfers or warrant requests. The Surplus Agency is authorized to deduct operating costs from the selling price of all state surplus property. In all cases property will be priced to sale for fair market value. Items that are not marketable for whatever reason may be discounted in price or disposed of by abandonment, donation, or sold as scrap.

C. Deposits from cash sales will be made to the State Treasurer in accordance with Title 51, Chapter 7.

D. The USASP may maintain a federal working capital reserve not to exceed one year's operating expenses. In the event the Surplus Agency accumulates funds in excess of the allowable working capital reserve, they will reduce their service and handling charge to under recover operating expenses and reduce the Retained Earnings balance accordingly. The only exception is where the USASP is accumulating excess funds in anticipation of the purchase of new facilities or capital items. Prior to the accumulation of excess funds, the USASP must obtain the written approval of the Executive Director of the Department of Administrative Services.

R28-1-78. Payment.

A. Payment received from public purchasers may be in the form of cash and/or certified funds, authorized bank credit cards, and business or personal checks. may not be accepted for amounts exceeding \$200. Two-party checks shall not be accepted.

B. Payment received from state subdivisions shall be in the form of agency or subdivision check or purchasing card.

C. Payment made by public purchasers shall be at the time of purchase and prior to removal of the property purchased. Payment for purchases by state subdivisions shall be within 60 days following the purchase and removal of the property.

D. The USASP Manager or designee may make exceptions to the payment provisions of this rule for good cause. A good cause exception requires a weighing of:

1. The cost to the state;
2. The potential liability to the state;
3. The overall best interest of the state.

R28-1-89. Bad Debt Collection.

A. The USASP shall initiate formal collection procedures in the event that a check from the general public, state subdivisions, or other agencies is returned to the USASP for "insufficient funds".

B. In the event that a check is returned to the USASP is returned for "insufficient fund," the USASP may:

1. Prohibit the debtor from making any future purchases from the USASP until the debt is paid in full.

2. Have division accountant send a certified letter to the debtor stating that:

- (a) the debtor has 15 days to pay the full amount owed with cash or certified funds, including any and all additional fees associated with the collection process, such as returned check fees; and

- (b) If the balance is not paid within the 15 day period, the matter will be referred to the Office of State Debt Collection for formal collection proceedings.

C. Debts for which payments have not been received in full within the 15 day period referred to above, shall be assigned to the Office of State Debt Collection in accordance with statute.

R28-1-910. Public Sales of Surplus Property.

A. State-owned surplus property may be purchased at any time by the general public, subject to any 30-day holding period that may be assigned by USASP management. The 30-day holding period may be waived if shown to be in the best interest of the state.

B. At the discretion of the USASP Manager, any state-owned surplus property may be sold to the general public by auction, sealed bid, or other acceptable method. Property to be auctioned may be consigned out to an auction service. If a consignment approach is considered, the USASP Manager must ensure that the auction service is contracted by and authorized by the Division of Purchasing.

C. Federal surplus property auctions to the general public may be accomplished on occasions and subject to the limitations as indicated previously.

D. The frequency of public auctions, for either State-owned or federal surplus property will be regulated by current law as applicable, the volume of items held in inventory at the USASP, and the profitability of conducting auctions versus other approaches to disposing of surplus property.

KEY: state property

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